



MEDICAL BOARD OF CALIFORNIA Central Complaint Unit



March [REDACTED] 2018

Patient: [REDACTED]
Control Number: [REDACTED]
Date(s) of Service: 2011-2012

Dear [REDACTED]

The Medical Board of California (Board) is in receipt of information regarding the death surrounding the above-named patient. Pursuant to the provisions of Section 800(c) of the Business and Professions Code, we are providing you with a comprehensive summary of the information the Board has learned regarding the patient.

This was a 58 year old who died on [REDACTED] 2012 of accidental carisoprodol, lorazepam, oxycodone, zolpidem and trazodone toxicity. Coronary artery atherosclerosis was the only medical condition noted. There were 236 CURES entries in a report for a three year span on the patient. Three providers prescribed heavily to this patient and one of them was noted to have been you. It is unknown what medical condition(s) the patient suffered which required such medications, which is why the Board is requesting a summary of the care you rendered to this patient along with a copy of the medical records.

Pursuant to Section 2220.08(a)(2)(B) of the Business and Professions Code, the Board is required to provide you with an opportunity to respond to the allegations noted above. To do so, please provide a written summary of the care and treatment rendered to this patient and a copy of your curriculum vitae. You may also provide any additional expert testimony or literature which you feel would be pertinent to the Board to evaluate.

Additionally, the Board has been unable to locate or contact the deceased patient's beneficiary or personal representative. As such, in accordance with Business and Professions Code Section 2225(a)(c)(1), the Board is requesting that you provide CERTIFIED copies of the deceased patient's medical records, including diagnostic images if applicable, to our agency. Please complete the enclosed Certification of Records/Declaration of Custodian of Records to certify that the records are a "true copy" and a complete set and return it with the records to the address shown below. It would be appreciated if you would also include a copy of this letter with your response. Pursuant to Business and Professions Code Sections 2225(e) and 2225.5 (copy enclosed), failure to produce the records by the date requested may result in citation and fine or assessment of civil penalties of \$1,000 per day.

The records, summary and copy of your curriculum vitae are to be provided by 04/16/2018. Please send this material to the attention of:

Erika Calderon
Medical Board of California
2005 Evergreen St., Suite 1200
Sacramento, CA 95815-3831

The Medical Board of California is a regulatory law enforcement agency requesting this information for a confidential review. If you have any questions, please feel free to contact me.

Thank you for your cooperation in this matter.

Sincerely,



Erika Calderon
Consumer Services Analyst
916-263-2453

Enclosures: Business and Professions Code Section 2225.5
Declaration of Custodian of Records/Certification of Records

NOTICE: A licensee that fails to provide the certified medical records within 15 days, or a health care facility within 30 days, of receipt of a request for certified medical records may constitute a violation of Sections 2225(e) and 2225.5 of the Medical Practice Act (copy enclosed) and may result in a civil penalty of \$1,000 per day for each day that the documents have not been produced. **Effective January 1, 2014: For health care facilities that have electronic health records, failure to provide the authorizing patient's certified medical records to the board within 15 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars (\$10,000), unless the health care facility is unable to provide the documents within this time period for good cause.** "Certified medical records" is defined as "a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the board."

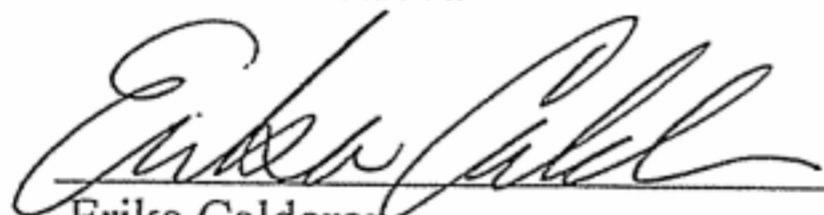
DECLARATION OF Erika Calderon

In the Matter of the Complaint Against:
[REDACTED]

I, the undersigned, declare the following:

1. I am over 18 years old and not a party to the action.
2. I am a Consumer Services Analyst with the Medical Board of California (Board), and my business address is 2005 Evergreen St., Suite 1200, Sacramento, CA 95815-3831.
3. I am the analyst assigned by the Board to initiate the investigation into Juliet Lynn Boost's death, and require Juliet Lynn Boost's medical records to further the investigation.
4. I served a request for Authorization for Release of Medical Information to the Next of Kin identified on the death certificate for Juliet Lynn Boost to the last known address on 11/02/2017. This letter was sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid. No response was received.
5. I served a follow-up letter and request for Authorization for Release of Medical Information to the Next of Kin to the last known address on 12/01/2017.
6. As of 03/16/2018 I have not received a response to the request from the Next of Kin.
7. I have been unsuccessful in contacting the deceased patient's beneficiary or personal representative after reasonable efforts, and on behalf of the Board, I am now requesting Juliet Lynn Boost's records pursuant to Business and Professions Code Section 2225(a)(c)(1).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Erika Calderon
Declarant

[REDACTED]

Date



MEDICAL BOARD OF CALIFORNIA
ENFORCEMENT PROGRAM
Central Complaint Unit
2005 Evergreen St., #1200
Sacramento, CA 95815
(916) 263-2528 FAX (916) 263-2435
www.mbc.ca.gov



Patient: _____ Record No.: _____

Business Facility: _____ Phone No.: _____

Address: _____ City/State: _____ Zip: _____

CERTIFICATION OF RECORDS

To the best of my knowledge, the copied documents, records and other things enclosed herewith were and are prepared and maintained in the ordinary course of business by authorized persons or personnel of this business or facility at or near the time of the acts, conditions or events described by such records. The enclosed records of the business or facility are a true copy of the following records described in the patient authorization or subpoena duces tecum (check only one):

- the complete records consisting of _____ pages;
- the complete records for the period beginning _____ and ending _____ only, consisting of _____ pages;
- the completed records, except that the business or facility does not have the following:

The copied records consist of _____ pages.

CERTIFICATION OF NO RECORDS

- A thorough search of our files carried out under my direction and control revealed that this business or facility does not have the records described in the patient authorization or the subpoena duces tecum.

DECLARATION OF CUSTODIAN OF RECORDS

I, the undersigned, am the duly authorized Custodian of Records of the above named business or facility. I am familiar with the mode of preparation of, and have the authority to certify, the business or facility records. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Print Name and Title

Signature

Date

NOTICE: A licensee that fails to provide the *certified* medical records within 15 days, or a health care facility within 30 days, of receipt of a request for certified medical records may constitute a violation of Section 2225.5 of the Medical Practice Act and may result in a civil penalty of \$1,000 per day for each day that the documents have not been produced. "Certified medical records" is defined as "a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the board."

MBC CASE NO. _____

2225.

(a) Notwithstanding Section 2263 and any other law making a communication between a physician and surgeon or a doctor of podiatric medicine and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted under this chapter. Members of the board, the Senior Assistant Attorney General of the Health Quality Enforcement Section, members of the California Board of Podiatric Medicine, and deputies, employees, agents, and representatives of the board or the California Board of Podiatric Medicine and the Senior Assistant Attorney General of the Health Quality Enforcement Section shall keep in confidence during the course of investigations, the names of any patients whose records are reviewed and shall not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceedings are instituted. The authority of the board or the California Board of Podiatric Medicine and the Health Quality Enforcement Section to examine records of patients in the office of a physician and surgeon or a doctor of podiatric medicine is limited to records of patients who have complained to the board or the California Board of Podiatric Medicine about that licensee.

(b) Notwithstanding any other law, the Attorney General and his or her investigative agents, and investigators and representatives of the board or the California Board of Podiatric Medicine, may inquire into any alleged violation of the Medical Practice Act or any other federal or state law, regulation, or rule relevant to the practice of medicine or podiatric medicine, whichever is applicable, and may inspect documents relevant to those investigations in accordance with the following procedures:

(1) Any document relevant to an investigation may be inspected, and copies may be obtained, where patient consent is given.

(2) Any document relevant to the business operations of a licensee, and not involving medical records attributable to identifiable patients, may be inspected and copied if relevant to an investigation of a licensee.

(c) (1) Notwithstanding subdivision (b) or any other law, in any investigation that involves the death of a patient, the board may inspect and copy the medical records of the deceased patient without the authorization of the beneficiary or personal representative of the deceased patient or a court order solely for the purpose of determining the extent to which the death was the result of the physician and surgeon's conduct in violation of the Medical Practice Act, if the board provides a written request to the physician and surgeon that includes a declaration that the board has been unsuccessful in locating or contacting the deceased patient's beneficiary or personal representative after reasonable efforts. Nothing in this subdivision shall be construed to allow the board to inspect and copy the medical records of a deceased patient without a court order when the beneficiary or personal representative of the deceased patient has been located and contacted but has refused to consent to the board inspecting and copying the medical records of the deceased patient.

(2) The Legislature finds and declares that the authority created in the board pursuant to this section, and a physician and surgeon's compliance with this section, are consistent with the public interest and benefit activities of the federal Health Insurance Portability and Accountability Act (HIPAA).

(d) In all cases in which documents are inspected or copies of those documents are received, their acquisition or review shall be arranged so as not to unnecessarily disrupt the medical and business operations of the licensee or of the facility where the records are kept or used.

(e) If documents are lawfully requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of the board or the California Board of Podiatric Medicine, the documents shall be provided within 15 business days of receipt of the request, unless the licensee is unable to provide the documents within this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. Failure to produce requested documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct. The board may use its authority to cite and fine a physician and surgeon for any violation of this section. This remedy is in addition to any other authority of the board to sanction a licensee for a delay in producing requested records.

(f) Searches conducted of the office or medical facility of any licensee shall not interfere with the recordkeeping format or preservation needs of any licensee necessary for the lawful care of patients.

BUSINESS AND PROFESSIONS CODE - BPC

2225.5.

(a) (1) A licensee who fails or refuses to comply with a request for the certified medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars (\$10,000), unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the certified medical records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's certified medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars (\$10,000), unless the health care facility is unable to provide the documents within this time period for good cause. For health care facilities that have electronic health records, failure to provide the authorizing patient's certified medical records to the board within 15 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars (\$10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the certified medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, up to ten thousand dollars (\$10,000), unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For purposes of this section, "certified medical records" means a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the board.

(g) For purposes of this section, a "health care facility" means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.